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[New Hampshire Code of Administrative Rules](#)
[Env-Wr 100-800](#)

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CHAPTER Env-Wr 100 ORGANIZATIONAL RULES

PART Env-Wr 101 DEFINITIONS

Env-Wr 101.01 "Acre-foot" means the volume of water that would cover one acre to a depth of one foot.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.02 "Breached dam" means a dam which no longer impounds water during the design storm event as specified in Env-Wr 504.10.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.03 "Class AA structure" means a dam the failure of which would not threaten life or property and meets the following criteria:

- (a) Is not greater than 6 feet in height with a storage capacity greater than 50 acre-feet.
- (b) Is not greater than 25 feet in height with a storage capacity greater than 15 acre-feet.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.04 "Class A structure" means a dam with a low hazard potential, the failure of which

would result in any of the following:

- (a) No possible loss of life as defined in Env-Wr 101.29;
- (b) Minimal economic loss;
- (c) Major damage to town and city roads; or
- (d) Minor damage to Class I and II state highways; or
- (e) The release of liquid industrial, agricultural, or commercial wastes or municipal sewage if the storage capacity is less than 2 acre-feet and is located more than 300 feet from a waterbody or water course.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #4491, eff 9-20-88

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.05 "Class B structure" means a dam with a significant hazard potential, the failure of which would result in any of the following:

- (a) Possible loss of life;
- (b) Significant economic loss;
- (c) Major damage to Class I and Class II state highways;
- (d) Minor damage to interstate highways;
- (e) Loss of a municipal water supply reservoir which constitutes more than 50% of a community's source or whose loss could endanger public health; or
- (f) The release of liquid industrial, agricultural, or commercial wastes or municipal sewage from dams which do not meet the criteria in Env-Wr 101.04(e).

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4491, eff 9-20-88; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.06 "Class C Structure" means a dam with a high hazard potential, the failure of which would result in any of the following:

- (a) Probable loss of life; or

(b) Major damage to interstate highways.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.07 "Consumptive use" means all uses which are not nonconsumptive as defined by Env-Wr 101.25.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.08 "Dam" means "dam" as defined by RSA 482:2,II, namely "any artificial barrier, including appurtenant works, which impounds or diverts water, and which has a height of 4 feet or more, or a storage capacity of 2 acre-feet or more, or is located at the outlet of a great pond. A roadway culvert shall not be considered a dam if its invert is at the natural bed of the water course, it has adequate discharge capacity, and it does not impound water under normal circumstances. Artificial barriers which create surface impoundments for industrial, or commercial wastes or municipal sewage, regardless of height or storage capacity, shall be considered dams".

Source. #1702, eff 1-1-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.09 "Dam in disrepair" means "dam in disrepair" as defined by RSA 482:2,V, namely "a dam which is a menace to public safety, or incapable of safely impounding flood waters to its crest, or incapable of maintaining a reasonably constant level of waters impounded, or one which does not contain adequate gates and sluiceways to provide for the holding or controlled discharge of waters impounded."

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.10 "Days" means calendar days except as specified in Env-Wr 203.01.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.11 "Department" means the department of environmental services.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.12 "Discharge capacity" means the amount of water which can safely pass the structure through its normal discharge channels.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.13 "Division" means the water division of the department of environmental services.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.14 "Facility" means a physical location where water is withdrawn, treated or utilized and can include a number of individual points of use within one site, in close proximity, or owned

by one person.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.15 "Flashboards" means boards which temporarily raise the pond elevation but are either automatically or manually removed to allow flood flows to pass.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4491, eff 9-20-88; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.16 "Freeboard" means the vertical distance from the water surface, under specific flow and wave conditions, to the lowest elevation at which water would flow over the impounding structure other than at a spillway or at a section designed to be overflowed.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.17 "Great Pond" means a water body of more than 10 acres in its natural condition.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.18 "Groundwater" means "groundwater" as defined in RSA 481:2, III-a, namely "all water in the ground below the water table."

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.19 "Height of dam" means a vertical distance from the lowest point of natural ground on the downstream side of the dam to the highest part of the dam which would impound water.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.20 "Major damage" means structural damage to a bridge, severance of a roadway embankment or other damage which could render a road impassable, or interrupt public safety services.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4278, eff 6-30-87; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.21 "Menace to public safety" means any dam whose failure would threaten life or property. Property, when used in this context, means buildings, structures or other real estate.

Source. #4278, eff 6-30-87; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.22 "Mills" means "mills" as defined by RSA 482:2, VII, namely "structures including both manufacturing plants and plants at which electric power is generated for public distribution or for the operation of mills, railroads or public utilities."

Source. #4278, eff 6-30-87; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.23 "Minimal Economic loss" means economic loss to undeveloped agriculture, uninhabited structures such as storage sheds, or minor impact to sites listed or tracked by the natural heritage inventory, as maintained by the department of resource and economic development.

Source. #4278, eff 6-30-87; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.24 "Minor Damage" means damage which would not immediately threaten the structural integrity of a road, but which would require repairs in order to ensure the future integrity of the road.

Source. #4278, eff 6-30-87; ss by #5080,
eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.25 "Non-consumptive use" means a use which releases the same quantity of water from a facility as enters the facility and returns the water to the same source from which it was withdrawn.

Source. #4278, eff 6-30-87; ss by #5080,
eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.26 "Peak runoff" means the maximum rate of water inflow to a specific point due to overland flow of water from precipitation and snowmelt.

Source. #4278, eff 6-30-87; ss by #5080,
eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.27 "Person" means "person" as defined by RSA 482:2,VIII, namely "any individual, partnership, association, corporation, company, organization or legal entity of any kind."

Source. #4278, eff 6-30-87; ss by #5080,
eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.28 "Plans" means engineering drawings including plan views, elevations, sections, and details.

Source. #4278, eff 6-30-87; ss by #5080,
eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.29 "Possible loss of life" means the risk posed by water levels rising to the foundation but below the first floor elevation of a habitable structure during a dam breach.

Source. #4278, eff 6-30-87; ss by #5080,
eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.30 "Presiding Officer" means "presiding officer" as defined in RSA 541-A:1,XIV, namely "that individual to whom the agency has delegated the authority to preside over a proceeding, if any; otherwise it shall mean the head of the agency."

Source. #4278, eff 6-30-87; ss by #5080,
eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.31 "Probable loss of life" means the risk posed by inundation above the first floor elevation of a habitable structure during a dam breach.

Source. #4399, eff 4-19-88, EXPIRED 4-19-90

New. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.32 "Public Waters" means all great ponds and all waterbodies whose artificial high water level is maintained by the state's exercise of its flowage rights.

Source. #4491, eff 9-20-88; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.33 "Reconstruction" means:

- (a) Changing the height, length or discharge capacity of the structure; or
- (b) Restoring a breached dam or one in ruins as defined in Env-Wr 101.02 and Env-Wr 101.37, respectively; or
- (c) Modification of flashboards which either increases their height or increases the headwater elevation at which the boards will fail; or
- (d) A change in the structural configuration of a dam.

Source. #4491, eff 9-20-88; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.34 "Registered" means any dam whose existence, size, location and ownership have been filed by the dam owner with the department.

Source. #4491, eff 9-20-88; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.35 "Repair" means periodic maintenance of a minor nature which does not change the height, length or discharge capacity of the structure.

Source. #4491, eff 9-20-88; ss by #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.36 "Return" means the release of water to the environment.

Source. #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.37 "Ruins" means a dam which no longer impounds water and whose deterioration is to the extent that the original configuration can no longer be determined.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.38 "Run of river dam" means a dam situated on a river or stream whose spillway length and width of impoundment is nearly equal to the width of the original river or stream from bank to bank.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.39 "Significant economic loss" means economic loss to any area with developed agriculture, industry, commercial business or work sites, residential areas, or significant impact to sites listed or tracked by the natural heritage inventory, as maintained by the department of resource and economic development.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.40 "Specifications" means descriptions of materials and methods of work sufficient in quantity and detail to convey the intent of the designer.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.41 "Stage" means the depth of water or elevation of water surface.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.42 "Storage capacity" means the maximum volume of water impounded by a dam when the impoundment level is at the top of dam.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.43 "Surface waters" means any lake, pond, river, stream, wetland or tidal waters.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.44 "Unregistered" means any dam, as defined in Env-Wr 101.08, which is not registered.

[Source.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

Env-Wr 101.45 "Water use" means the act of:

- (a) Withdrawing water from surface and/or ground water sources; or
- (b) Collecting and treating waste water including returning the water to the environment; or
- (c) Passing water through a facility for domestic, institutional, commercial, industrial, agricultural or power production purposes irrespective of the point of withdrawal or return; or
- (d) Any other consumptive or non-consumptive use of water.

[Source.](#) #6462-A, eff 2-21-97

Env-Wr 101.46 "Water user" means a person who uses water.

[Source.](#) #6462-A, eff 2-21-97

Env-Wr 101.47 "Well" means "well" as defined in RSA 482-B:2, VII, namely "an excavation or opening in the earth from which subsurface water can be obtained."

[Source.](#) #6462-A, eff 2-21-97

Env-Wr 101.48 "Withdrawal" means the collection of water by pumping or gravity from surface or ground waters.

[Source.](#) #6462-A, eff 2-21-97

ParT Env-Wr 102 ACCESS TO FILES

Env-Wr 102.01 Public Records/Access to Files. The files of the department shall be open to public inspection. Information which is available for public distribution may be copied. A fee of \$.10 per page shall be assessed for making photocopies of the files and a charge of \$15 per hour shall be assessed if research by department personnel is required.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

[New.](#) #5080, eff 2-22-91; ss by #6462-A, eff 2-21-97

PART Env-Wr 103 DUTIES OF THE DEPARTMENT

Env-Wr 103.01 Summary of Duties. Pursuant to its statutory authority, the department performs the following duties:

- (a) Enter interstate compacts for conserving and regulating flow, lessening flood damages and removing or preventing sources of pollution, pursuant to RSA 482:91;
- (b) Monitor flow by establishing and maintaining a network of stream flow gaging stations with cooperation from the United States Geological Survey, pursuant to RSA 482:85;
- (c) Construct, maintain and operate small watershed projects with cooperation from the Soil Conservation Service (S.C.S.), now known as the Natural Resources Conservation Service, under PL 566, pursuant to RSA 482:77;
- (d) When duly authorized by the legislature, accept, repair, maintain and operate certain dams, pursuant to RSA 482:48;
- (e) Make determinations whether it will be in the public interest to grant the right to erect a dam, pursuant to RSA 482:31;
- (f) Maintain a current list of existing dams including their size, location, classification and owner, pursuant to RSA 482:8;
- (g) Regulate the construction and reconstruction of dams, pursuant to RSA 482:7-11;
- (h) Periodically inspect dams, pursuant to RSA 482:12;
- (i) Make determinations of public use and benefit, pursuant to RSA 482:17, 31;
- (j) Grant owners of mill dams certain rights when in the public interest, pursuant to RSA 482:31;
- (k) Make channel improvements in the public interest, pursuant to RSA 482:1;
- (l) Make determinations of whether dams are in disrepair and conduct pursuant proceedings, pursuant to RSA 482:59;
- (m) Make orders, conduct hearing, subpoena and examine under oath, persons, their books, records, etc. as necessary to carry out its obligations, pursuant to RSA 482:87;
- (n) Adopt, and enforce rules pursuant to RSA 482:87;
- (o) Investigate the levels of inland public waters, pursuant to RSA 482:79;
- (p) Contract with village districts for the purpose of impounding water, pursuant to RSA 52:25;
- (q) Monitor the ground water resources with the cooperation of the United States Geological Survey, pursuant to RSA 482:3,II;

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; #4278, eff 6-30-87; ss by #4580, eff 2-27-89; rpld by #5080, eff 2-22-91

New. #6462-A, eff 2-21-97 (formerly Env-Wr 105.01)

PART Env-Wr 104 REPEALED

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4580, eff 2-27-89; ss by #5080, eff 2-22-91

CHAPTER Env-Wr 200 RULES OF PRACTICE AND PROCEDURE

PART Env-Wr 201 APPLICABILITY, PURPOSE AND DEFINITIONS

Env-Wr 201.01 Applicability. The rules within this chapter shall govern proceedings before the department. These rules shall be construed to secure a just and speedy determination of every proceeding.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 201.02 Nature of Proceedings. The purpose of any proceeding governed by this chapter is to permit the presiding officer to acquire sufficient information to make a reasonable decision, and to afford persons who may be affected by decisions of the presiding officer the opportunity to present data and argument to the presiding officer prior to the making of that decision.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 201.03 Waiver.

(a) Any person who is or would be directly and adversely affected by the strict application of these rules may request a waiver of the rule(s) or portion(s) thereof which so affect that person.

(b) The request for a waiver shall be submitted in writing unless the need for a waiver does not become apparent until a hearing is underway, in which case the request shall be presented orally and made part of the record.

(c) The request shall contain the following information:

(1) An identification of the specific section(s) of the rule(s) from which a waiver is sought; and

(2) A full explanation of why a waiver is being requested, including an explanation of the hardship that would be caused by compliance with the rule.

(d) If the presiding officer determines that there is reasonable cause to grant the request for the waiver, that the requirement is not one that is prescribed by statute and that no other party, intervenor or the department will be prejudiced thereby, the presiding officer shall grant the request.

(e) The presiding officer shall notify all parties, intervenors and other interested persons, including the department, of the disposition of the request.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 201.04 Definitions.

(a) "Contested Case" means an adjudicatory proceeding, in which the legal rights, duties, or privileges of a person are required by law to be determined after an opportunity for a hearing; but not including a rulemaking proceeding.

(b) "Data" means all information, other than arguments, including, but not limited to, comments, views, reports, maps, surveys, charts, sound recordings, photographs, pictorial reproductions, drawings, analyses, calculations, graphic representations, computer programs and printouts, testimony, statements, notes, memoranda, and documents whether finished or unfinished.

(c) "File" means to place a document into the actual possession of the department, or the compilation of previously placed documents.

(d) "Hearing" means the formal receipt by the presiding officer of data, or argument, or both, from persons.

(e) "Individual" means a human being.

(f) "Intervenor" means a person other than a petitioner or respondent, who is permitted by the presiding officer to appear and participate in a contested case.

(g) "License" means any permit, permission, registration, certificate, exemption, or other authority issued to a person to do, or to abstain from doing something.

(h) "Motion" means any application by a party or intervenor to a proceeding for an order relating to that proceeding.

- (i) "Order" means any document issued by the presiding officer requiring a person to do, or to abstain from doing something.
- (j) "Party" means any petitioner or respondent. Neither the department nor any of its officers or employees are parties; except the department shall be deemed a party when the proceeding relates to a dam owned by the department, and/or a department order is appealed to a higher authority.
- (k) "Person" means any individual, corporation, partnership, association, nation, state, county, town, city, territory, district, political subdivision or other state agency.
- (l) "Petition" means any application, complaint, request, entreaty, or other communication filed with the presiding officer, in writing, other than a motion, seeking an order, license, action investigation or any other relief.
- (m) "Petitioner" means the person who filed a petition.
- (n) "Reply" means the document in which a person answers the allegations and arguments contained in a petition or motion, or where appropriate, an order.
- (o) "Respondent" means the person against whom relief is sought in a petition, or one specifically identified as such in an order.

[Source.](#) #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

PrT Env-Wr 202 APPEARANCE BEFORE THE DEPARTMENT

Env-Wr 202.01 Who May Appear.

- (a) An individual may be represented in a proceeding either by himself or by a representative.
- (b) Persons other than individuals shall be represented by a duly-authorized officer or by a representative as specified in Env-Wr 202.02.

[Source.](#) #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 202.02 Representative. A representative may be either an attorney-at-law, an engineer, or such other individual as the person appearing shall so designate.

[Source.](#) #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

PART Env-Wr 203 TIME

Env-Wr 203.01 Computation.

(a) In computing any period of time under the rules in this chapter, the time begins with the day following the act, event, default, or presiding officer's decision and includes the last day of the period, unless it is a Saturday, Sunday, or state legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or state legal holiday.

(b) When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays and state legal holidays shall be excluded from the computation.

[Source.](#) #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

PART Env-Wr 204 PETITIONS, MOTIONS, REPLIES, DOCUMENTS, FILINGS

Env-Wr 204.01 Petitions.

(a) Unless otherwise required by statute or this chapter, all petitions shall contain, in writing, the following:

- (1) The name and address of the petitioner;
- (2) The name and address of the representative of the petitioner, if any;
- (3) A concise statement of the facts which causes the petitioner to request the presiding officer to act;
- (4) The action which the petitioner wishes the presiding officer to take;
- (5) The identification of any statutes, rules, orders, or other authority which entitles the petitioner to have the presiding officer act as requested;
- (6) The name and address of the person, if any, against which the petitioner complains or against which the petitioner wishes the presiding officer to take action.

(b) Unless otherwise required by statute or these rules, all replies shall be in writing and shall contain the following:

- (1) The name and address of the respondent;
 - (2) The name and address of the representative of the respondent, if any;
 - (3) A statement admitting or denying each and every fact stated in the petition;
 - (4) A statement admitting or denying the authority identified in support of the action requested by the petitioner;
 - (5) A concise statement of each and every additional or different fact which causes the respondent to request the presiding officer not to act, or to act differently from that requested by the petitioner;
 - (6) The identification of any statutes, rules, orders, or other authority, not identified in the petition, having a bearing upon the subject matter of the petition; and
 - (7) The action which the respondent wishes the presiding officer to take.
- (c) Unless otherwise provided by statute or these rules, a reply shall be filed within 30 days after service of a petition.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4336, eff 11-5-87; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 205.01)

Env-Wr 204.02 Motions.

- (a) Unless otherwise specifically provided in these rules, all motions and replies thereto shall conform to the requirements of this section. Unless presented during an oral session of a proceeding, all motions and replies thereto shall be in writing.
- (b) All motions shall state clearly and concisely the purpose of the motion, the relief sought by the motion, the statutes, rules, orders, and other authority authorizing the relief sought by the motion, and the facts claimed to constitute the grounds requiring the relief requested by the motion.
- (c) Replies to motions shall state clearly and concisely the defense of the party filing the reply, the action which the party filing the reply wishes the presiding officer to take on the motion, the statutes, rules, orders, or other authority relied upon in defense of the motion, and any facts which are additional to or different from the facts stated in the motion.
- (d) No repetitious motions shall be filed.
- (e) Unless otherwise provided by statute or this chapter, replies to motions shall be filed within 10 days after the filing of the motion. In the event a reply is not received within the allowed time period, the presiding officer shall make a decision on the merits of the motion.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 205.02)

Env-Wr 204.03 Form and Appearance of Documents. All documents to be filed under the rules in this chapter shall:

- (a) Be capable of being reproduced by xerographic reproduction, or any other process providing a clear and legible copy;
- (b) Contain the title and number of the proceeding;
- (c) Be dated, with the original signed in black ink;
- (d) State the title, if any, and address of the signer;
- (e) Be typed or printed in ink.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4336, eff 11-5-87; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 205.03)

Env-Wr 204.04 Subscription and Veracity of Documents.

- (a) All petitions, motions and replies filed with the presiding officer shall be signed by the party or if the party appears by a representative, by the representative.
- (b) A signature on the document shall constitute a certificate by the signer that:
 - (1) The signer has read the document;
 - (2) The signer is authorized to file it;
 - (3) To the best of the knowledge, information, and belief of the signer, there is good ground to support it;
 - (4) The document is not filed for delay.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #4336, eff 11-5-87

New. #6462-B, eff 2-21-97 (formerly Env-Wr 205.04)

Env-Wr 204.05 Filing of Documents with the Department. A document shall be deemed to be filed with the department when it is actually received by the department.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #4336, eff 11-5-87

New. #6462-B, eff 2-21-97 (formerly Env-Wr 205.06)

Env-Wr 204.06 Service of Documents. All notices, orders, decisions or other documents issued by the department relative to this chapter, shall be served by the department upon all parties to the proceeding in accordance with the following:

(a) By depositing a copy of the document, certified mail return receipt requested postage paid, in the United States mails, addressed to the party at the last address given to the department by the party;

(b) When a party has appeared by a representative, by depositing a copy of the document, certified mail return receipt requested postage paid, in the United States mails, addressed to the representative. If a party appears by 2 or more representatives, service on any of them is sufficient; or

(c) By delivering a copy by hand to the party or the party's representative.

Source. #6462-B, eff 2-21-97 (formerly Env-Wr 205.07)

Env-Wr 204.07 - REPEALED

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #4336, eff 11-5-87

PART Env-Wr 205 CONSOLIDATION AND SEVERANCE

Env-Wr 205.01 Consolidation. Whenever it shall appear to the presiding officer that 2 or more proceedings arise from the same set of circumstances and involve the same parties, the presiding officer shall consolidate those proceedings for hearing, or decision, or both.

Source. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 206.01)

Env-Wr 205.02 Severance. Whenever it shall appear to the presiding officer that the rights of a party are likely to be injured if all issues originally presented or presented upon consolidation are determined in one proceeding, the presiding officer shall, as justice permits, sever one or more issues from a proceeding, and dispose of those issues in another proceeding.

Source. #5080, eff 2-22-91; ss by #6297, eff 7-23-96; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 206.02)

PART Env-Wr 206 FORMAT FOR ADJUDICATORY HEARINGS

Env-Wr 206.01 Applicability. This part shall apply to all proceedings conducted by the department in contested cases.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6297, eff 7-23-96; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 207.01)

Env-Wr 206.02 Commencement, Notice of Hearing. The department shall commence a proceeding by issuing an order of notice, which shall:

- (a) Be served upon all parties to the proceeding in accordance with part Env-Wr 204 and Env-Wr 206.03;
- (b) Be published in accordance to Env-Wr 206.03;
- (c) Specify the date by which and address where appearance and written material shall be submitted;
- (d) Specify the date, time and location of the commencement of the oral hearing, if any;
- (e) Briefly summarize the subject matter of the proceeding;
- (f) Identify parties of the proceeding as of the date of the order;
- (g) Identify the statutes under which the proceeding is conducted; and
- (h) Identify the location and times where information pertaining to the proceeding can be reviewed.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 207.02)

Env-Wr 206.03 Time Periods and Publication of Notice.

- (a) The requirements of this part shall not alter the requirements as stated in the laws governing the particular proceeding, but rather are intended for use when requirements are not stipulated.
- (b) A pre-hearing conference shall be convened at the call of the presiding officer following the provisions of RSA 541-A.
- (c) Except as specified by law, 14 days notice shall be given to a party by mail or by hand.
- (d) In the case of an emergency which threatens public safety, the requirements imposed above shall be waived.

Source. #6462-B, eff 2-21-97 (formerly Env-Wr 207.03)

Env-Wr 206.04 Intervention.

- (a) If, after the commencement of a proceeding, a person, not already a party, desires to participate in that proceeding as a party, that person shall file a petition for intervention in accordance with RSA 541-A:17.
- (b) A petition for intervention shall be granted only if the presiding officer finds that the intervention will not broaden the matters at issue in the proceeding or unduly burden the existing parties to the proceeding. A person to whom intervention is granted shall be designated either an intervenor-petitioner or an intervenor-respondent, only.
- (c) Once the petition for intervention is granted, the intervenor shall be considered a participant in the proceeding from the commencement of the proceeding, and all time limitations shall be applied to the intervenor as if the intervenor was party to the proceeding from its commencement. No phase or portion of the proceeding shall be repeated because of the fact of intervention. The intervenor shall take the proceeding as he or she finds it.
- (d) The petition for intervention, and replies thereto, shall comply with the requirements of Env-Wr 204. In addition, the petition shall state with particularity:
 - (1) The interest of the petitioner in the subject matter of the hearing;
 - (2) The position of the petitioner with respect to the subject matter of the hearing; and
 - (3) The reasons why the petitioner should be permitted to intervene.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 207.04)

Env-Wr 206.05 Subpoena.

(a) Pursuant to RSA 482:87 the presiding officer shall have the power to issue subpoenas for the attendance of witnesses or the production of evidence, as necessary.

(b) Any persons to whom a subpoena is directed shall receive the mileage and fees paid to witnesses in the superior court of the state of New Hampshire.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 207.05)

Env-Wr 206.06 Evidence. Except as expressly provided to the contrary in these rules and RSA 541-A:18, all data that is relevant shall be admissible in proceedings governed by this part. Pursuant To RSA 541-A:18, the presiding officer shall exclude data which is irrelevant, immaterial or unduly repetitious evidence. In the event the presiding officer accepts a fact as common knowledge, it shall be stated, and any party, upon timely request, shall be afforded the opportunity to show contrary evidence.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 207.06)

Env-Wr 206.07 Burden of Proof. All moving parties and all petitioners shall have the burden of persuading the presiding officer that the motion or petition, as appropriate, should be granted.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 207.07)

Env-Wr 206.08 Methods of Proceeding, Conduct of Oral Hearings.

(a) Oral hearings shall be conducted in accordance with rules of this part. These rules shall not be construed to limit or alter the requirements of the applicable statutes. Parties giving testimony shall do so under oath or affirmation.

(b) The presiding officer shall open the hearing and:

- (1) Read the public notice;
- (2) Briefly summarize the subject matter of the proceeding;
- (3) Identify the parties to the proceeding;
- (4) Identify the applicable statutes; and

- (5) Outline the format for the conduct of the hearing.
- (c) The staff shall present a brief history and data relative to the proceeding.
- (d) The presiding officer shall recognize each party in turn at which time the party may present whatever data, argument, petitions, or motions that are relevant.
- (e) All parties shall be allowed to speak once before any parties are allowed to speak for a second time.
- (f) The presiding officer shall recognize the staff, or parties to the proceeding, in turn, for the purpose of reply.
- (g) No more than one individual shall speak at any one time.
- (h) The presiding officer shall require unruly or repetitious parties to refrain from speaking after verbal notice.
- (i) All parties shall be afforded the opportunity to make closing statements.
- (j) Prior to adjournment of the oral hearing, a period of time shall be set for the submission of additional testimony in writing prior to final determination of the presiding officer.

Source. #6462-B, eff 2-21-97 (formerly Env-Wr 207.08)

PART Env-Wr 207 DECISION AND APPEALS

Env-Wr 207.01 Department Order. A department order shall be issued pursuant to the determination by the presiding officer. It shall embody the findings of fact and rulings of laws of the presiding officer and any requirements to be imposed. Copies shall be sent to all parties to the proceeding and/or published in a newspaper of general circulation.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 208.01)

Env-Wr 207.02 Appeals. Appeals filed by a party of a contested case shall be submitted, in writing, to the water council under the provisions of RSA 21-O:7,IV.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 208.02)

PART Env-Wr 208 NON-ADJUDICATORY PUBLIC HEARINGS

Env-Wr 208.01 Applicability. This part shall apply to the conduct of hearings held by the department to provide and receive information and receive public comment in those cases which are not contested cases as defined by RSA 541-A:1,III.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 209.01)

Env-Wr 208.02 Non-Adjudicatory Public Hearings. Non-adjudicatory public hearings shall be held in the following cases:

- (a) When proposing to adopt rules;
- (b) For any matter which is not a contested case and for which the department is required to hold a hearing; and
- (c) For any matter normally not requiring public participation but deemed by the department to have significant public interest as demonstrated by media coverage, unsolicited public comments, or public inquiries.

Source. #1644, eff 10-7-80; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 209.02)

Env-Wr 208.03 Record. A record of the hearing shall be kept by tape recording. Copies of the recording shall be provided to the public upon request and payment of the costs for the tape and staff time to make the copy, or for staff time alone if a blank tape is submitted with the request. If any person desires a transcript of the tape, a transcript shall be prepared provided the cost of the transcription is paid by the person(s) requesting the transcript.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 209.03)

Env-Wr 208.04 Presiding Officer.

- (a) The presiding officer at a non-adjudicatory public hearing shall be the director or his/her designee.
- (b) The presiding officer shall have the authority to:
 - (1) Regulate the course of the hearing;
 - (2) Rule upon issues of procedure; and
 - (3) Take any other action necessary for the efficient and orderly conduct of the hearing, consistent with applicable state laws and rules.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 209.04)

Env-Wr 208.05 Opening the Hearing.

- (a) The presiding officer shall open the hearing by describing in general terms the purpose of the hearing and procedures governing its conduct.
- (b) If the purpose of the hearing is to provide information to the public, the presiding officer, department staff or such other person as the presiding officer designates shall then present such information.
- (c) After the opening statement and presentation of information, if any, the presiding officer shall open the hearing to receive comments and/or questions from the persons attending the hearing.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 209.05)

Env-Wr 208.06 Testimony.

- (a) Anyone wishing to submit written testimony or exhibits at a non-adjudicatory public hearing shall do so to the presiding officer, provided such testimony or exhibit is signed and dated.
- (b) Anyone wishing to testify at a non-adjudicatory public hearing shall submit his/her name, address, and whom he/she represents, if anyone, in writing to the presiding officer. The presiding officer shall call each person to present his/her testimony. Persons who plan to testify orally shall be encouraged to place their testimony in writing and to submit such written testimony to the presiding officer upon concluding their oral testimony.

(c) At the conclusion of testimony of each person, the person shall remain available to answer questions about the testimony given.

(d) The presiding officer shall terminate any comments, questions or discussions that are not relevant to the subject of the hearing.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 209.06)

Env-Wr 208.07 Closing the Hearing. When the presiding officer determines that no person has further questions or comments or that the questions, comments or discussions are not relevant to the subject of the hearing, he/she shall close the hearing. If additional time is requested to submit supplemental information which the presiding officer determines to be relevant to the subject of the hearing, he/she shall designate a specific time period for the record to remain open, except in the case of rulemaking hearings to which this extension option does not apply.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 209.07)

Env-Wr 208.08 Continuances. At any non-adjudicatory public hearing other than a hearing on proposed rules, if requested by a party to the hearing and the presiding officer determines that reasonable cause exists to continue the hearing and that no person will be prejudiced by a continuance, the presiding officer shall order that the hearing be concluded and continued to a later date, time and place. If such later date, time and place are known at the time of the hearing that is being continued, the date, time and place shall be stated on the record. If such later date, time and place are not known at the time of the hearing that is being continued, the presiding officer shall state how notice will be given of the date, time and place of the continued hearing.

[Source.](#) #6462-B, eff 2-21-97 (formerly Env-Wr 209.08)

CHAPTER Env-Wr 300 REGISTRATION, CONSTRUCTION AND RECONSTRUCTION OF DAMS

ParT Env-Wr 301 CLASSIFICATION OF DAMS

Env-Wr 301.01 Culvert.

(a) A culvert which impounds 2 acre-feet or more over its crown during the 25 year, 24 hour storm determined in accordance with Env-Wr 307.02(c), and which exceeds the maximum allowable headwater criteria in (b), below shall be considered a dam.

(b) The maximum allowable headwater depth for a culvert during the 25 year, 24 hour storm is listed in Table 3.1, below:

Table 3.1. - Criteria for Culvert Definition

CULVERT SIZE MAXIMUM
ALLOWABLE HEADWATER

(above culvert invert)

12" - 30" 2 times culvert size

36" - 48" 1.5 times culvert size

54" - up 1.25 times culvert size

(c) For non-cylindrical culverts, "size" shall correspond to height.

Source. #4399, eff 4-19-88; ss by #5080,
eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 301.02 Hazard Potential Classification. All dams shall be classified in accordance with the definitions of Env-Wr 101.03 through Env-Wr 101.06 as either:

- (a) Class AA, non-hazard potential structures;
- (b) Class A, low hazard potential structures;
- (c) Class B, significant hazard potential structures; or
- (d) Class C, high hazard potential structures.

Source. #1716, eff 2-20-81; ss by #2207,
eff 12-13-82; ss by #2900, eff 11-7-84;
amd by #4399, eff 4-19-88; ss by #5080,
eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 301.03 Classification Procedure.

- (a) The department shall review all new dam applications and shall periodically review existing dams by its own initiative or by request of the owner or general public and shall classify the structure in accordance with Env-Wr 101.03 through Env-Wr 101.06.
- (b) If the dam owner disagrees with the department's hazard classification, the owner shall submit, for review by the department, the following:
 - (1) The results of a dam breach analysis performed in accordance with Env-Wr 505.05;
 - (2) Breach routing in accordance with Env-Wr 505.06; and
 - (3) Inundation mapping in accordance with Env-Wr 505.08.

(c) Depending upon the classification, the owner of a proposed or existing dam shall meet specific requirements relative to design, construction, inspection and maintenance of the structure in accordance with Env-Wr 307.01 through Env-Wr 307.08.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4399, eff 4-19-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 301.04 Annual Registration Fee.

(a) Pursuant to RSA 482:8-a, annual registration fees for dams in the amount specified in RSA 482:8-a shall be payable to the department on January 1 of each calendar year.

(b) The department shall send a written notice, by October 31 of each year, to all dam owners of the amount of the registration fee that shall be due.

(c) The department shall send a second notice to all owners who fail to submit their annual registration fees by January 1. Such notice shall inform the owner that the payment is overdue and that if the dam owner fails to submit the registration fee within 10 days, the owner shall be subject to enforcement action, including administrative fines and referral to the department of justice.

Source. #5081, eff 2-22-91; ss by #5387, eff 5-1-92; ss by #6462-B, eff 2-21-97

ParT Env-Wr 302 REGISTRATION OF EXISTING DAMS

Statutory Authority: RSA 482:5

Env-Wr 302.01 Notification of Owner.

(a) When the department gains knowledge of the existence of an unregistered dam, either by its own reconnaissance or by reports of others, it shall send a letter by certified mail to the owner of the property on which the dam is located stating the unregistered status of the dam, the requirements with which the dam owner shall comply, and powers of the department.

(b) The department shall include within the letter an "application for registration of an existing dam" and a copy of RSA 482:5.

(c) The dam owner shall complete the application, providing the following:

(1) The height, length and location of the dam;

(2) The type and purpose of the dam;

(3) The dam foundation material;

- (4) The drainage area, pond area and storage capacity;
 - (5) The dam's design storm peak runoff;
 - (6) The dam's design discharge capacity;
 - (7) A plan and cross-section sketch of the dam showing outlet works, structural dimensions, and embankment slopes; and
 - (8) The name, address, telephone number and signature of applicant.
- (d) The applicant shall provide certification, by signature of the application, that the applicant owns or has flowage rights on all lands which will be permanently or temporarily flowed by the dam.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 302.02 Non-Compliance by Dam Owner/Order.

- (a) The dam owner shall return the completed registration forms within 14 days of receiving the letter sent pursuant to Env-Wr 302.01.
- (b) If the registration forms are not received within the allotted time period the department shall, after hearing proceedings, issue an order requiring the breach or removal of the structure within 28 days unless registration forms are received before that time. Registration forms shall be included with the order.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 302.03 Compliance by Dam Owner/Inspection. Upon receipt of the registration forms, the department shall inspect the dam and area affected by the dam for conditions and factors affecting the hazard potential classification, and evaluate if repair or reconstruction of the dam is required for the public safety.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 302.04 Notice to Municipality.

(a) Pursuant to RSA 541-A 39, the department shall, within 5 days of gaining knowledge of an unregistered dam, issue a notice to the municipality in which the dam is located. The municipality may submit data or information pertinent to the department's assessment of public safety. If the department receives such correspondence within 10 days of the town's receipt of the notice, it shall consider the information in issuing a permit to register the dam.

(b) For Class B and C structures, the department shall notify the municipality of a public hearing to be held by the department in the community in which the dam is located. At the public hearing the dam owner shall present information about the dam and a draft emergency action plan, and the department shall receive comment from the community.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 302.05 Review/Classification/Registration/Order. The department shall classify the hazard potential of the dam in accordance with Env-Wr 301.02 and, upon approval of the application, issue a permit as follows:

(a) For class AA dams, the permit shall be signed by the chief engineer or designee only, and registration with the county registry of deeds shall not be required.

(b) For class A, B, and C structures, the permit shall be signed by the chief engineer or designee, and by the commissioner. The original permit shall be sent to the registry of deeds of the county in which the dam is located, to be recorded and then returned to the department, for forwarding to the dam owner. A copy of the permit shall be retained by the department. A copy shall be sent to the dam owner at the time of approval until the original is forwarded.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 302.06 Repairs Required. If the department finds that repairs or reconstruction shall be required in the interest of public safety, it shall proceed in accordance with Env-Wr 504.

Source. #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 302.07 - REPEALED

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; rpld by #5080, eff 2-22-91

Env-Wr 302.08 - REPEALED

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; rpld by #5080, eff 2-22-91

ParT Env-Wr 303 REGISTRATION OF AN EXISTING DAM ON A GREAT POND

Statutory Authority: RSA 482:6

Env-Wr 303.01 Notification of Owner.

(a) When the department gains knowledge of the existence of an unregistered dam on a great pond, either by its own reconnaissance or by reports of others, it shall send a letter by certified mail to the owner of the property on which the dam is located stating the unregistered status of the dam, requirements with which the dam owner shall comply, and powers of the department.

(b) The department shall include within the letter an "application for registration of existing dam" and a copy of RSA 482:5.

(c) The dam owner shall complete the application, providing the following:

- (1) The height, length and location of the dam;
- (2) The type and purpose of the dam;
- (3) The dam foundation material;
- (4) The drainage area, pond area and storage capacity;
- (5) The dam's design storm peak runoff;
- (6) The dam's design discharge capacity;
- (7) A plan and cross-section sketch of the dam showing outlet works, structural dimensions, and embankment slopes; and
- (8) The name, address, telephone number and signature of applicant.

(d) The applicant shall provide certification, by signature of the application, that the applicant has flowage rights on all lands which will be permanently or temporarily flowed by the dam.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-10-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 303.02 Notice of Hearing. Within 14 days after receipt of notification by the dam owner, the department shall schedule a non-adjudicative public hearing to be held within 30 days in accordance with Env-Wr 200.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 303.03 Inspection. Prior to the non-adjudicative public hearing, the department shall inspect the dam and areas affected by the dam for condition, hazard potential classification and public use and benefit.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 303.04 Hearing/Determination.

- (a) A non-adjudicative public hearing shall be held in accordance with Env-Wr 200.
- (b) The hearing officer shall hear evidence and formulate an opinion on the following topics:
 - (1) The classification of the structure;
 - (2) How the outlet should be managed and controlled to best serve the public interest; and
 - (3) Operation of the dam necessary to protect the rights and safety of the public.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 303.05 Order/Registration. The presiding officer shall incorporate findings, including any operational requirements, into a formal order to the dam owner. The order shall constitute registration of the dam. The department shall send a copy of the order to the registry of deeds of the county in which the dam is located. A copy of the order shall be retained by the department. The original order shall be sent to the dam owner.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4354, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 303.06 Repairs Required. If the department finds that repairs shall be required in the interest of public safety, it shall proceed in accordance with Env-Wr 504.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 303.07 - REPEALED

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; rpld by #5080, eff 2-22-91

ParT Env-Wr 304 CONSTRUCTING A DAM ON A GREAT POND

Statutory Authority: RSA 482:7

Env-Wr 304.01 Applicability. The requirements of this part shall apply to all proposed dams and to the reconstruction of all existing dams built after September 3, 1977, and which are located on a great pond. These requirements shall be in addition to the requirements set forth in Env-Wr 305.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 304.02 Submission to Legislature. The applicant shall submit a proposal to construct a dam described in Env-Wr 304.01 to a legislator and shall request that it be submitted as a bill to the legislature for approval.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 304.03 Recommendation of Department. The department shall review the proposal and submit its recommendations to the appropriate committees of the legislature.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 304.04 Procedure if Approved. Upon authorization by the legislature, the applicant shall follow the procedure set forth in Env-Wr 305. Subject to the authorization by the legislature, the applicant shall meet any requirements imposed by the department pursuant to RSA 482:7.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Part Env-Wr 305 PERMIT APPLICATION PROCEDURE FOR CONSTRUCTING OR RECONSTRUCTING A DAM

Statutory Authority: RSA 482:9,I and II

Env-Wr 305.01 Applicability.

- (a) The requirements of this part shall apply to all persons who apply to construct or reconstruct a dam.
- (b) Dams on great ponds shall also be subject to the requirements of Env-Wr 304.
- (c) Construction or reconstruction of mill dams shall also be subject to the requirement of Env-Wr 306.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.02 Emergency Repair Without Approval. Emergency repair shall be permitted without prior approval, but the dam owner shall inform the department within 48 hours after the initiation of

necessary repairs, and shall submit a formal written statement after the emergency repairs are completed. Such statement shall explain the nature of the emergency and, in detail, what corrective measures were taken.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.03 Application.

- (a) The applicant shall submit an "application to construct or reconstruct a dam" to the department.
- (b) The applicant shall supply on or with the application the following:
 - (1) The name, address and telephone number of applicant;
 - (2) The height and length of the dam;
 - (3) The location of the dam on the applicable USGS Quadrangle map;
 - (4) The city/town tax map number and lot number for the property on which the dam is located;
 - (5) The drainage area, pond area and storage capacity of the dam;
 - (6) The type and purpose of the dam;
 - (7) The type of foundation material;
 - (8) The design storm frequency and inflow, and the dam's discharge capacity;
 - (9) A brief description of downstream structures which could be impacted by a failure of the dam;
 - (10) The name of the stream, river or waterbody, if applicable;
 - (11) A plan and cross-section sketch of proposed dam; and
 - (12) If reconstruction, a description of the proposed reconstruction.
- (b) The applicant shall provide certification, by signature of the application, that the applicant has flowage rights on all lands which will be permanently or temporarily flowed by the dam.
- (c) All forms shall be printed in ink, or typed, and signed by the owner or owners.
- (d) Incomplete or improperly completed forms shall be returned by the department to the applicant or applicants with a statement for the reason for the return and the additional information required.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.04 Pre-Construction Inspection/Classification. The department shall inspect the site of the proposed construction or reconstruction in accordance with Env-Wr 501.01.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.05 Notification of Owner.

(a) Within 10 days of receipt of the application, the department shall provide the owner with the following:

- (1) The dam number;
- (2) The date of receipt of the application;
- (3) The dam's Classification; and
- (4) A statement that construction shall not commence until the department and all other appropriate state or federal agencies have granted final approval.

(b) Within 30 days of classification by the department, the department shall provide the owner with the following:

- (1) Design and construction requirements of the particular structure depending upon classification;
- (2) Specific information needed for design review per Env-Wr 307.01 if the submitted design is lacking in particular areas; and
- (3) For class B and C structures, notification that a permit will not be issued until a draft EAP has been submitted to the department for review and a public hearing held by the department in the community in which the dam is located.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.06 Notice to Municipality.

(a) When the department receives an application to construct a dam, it shall issue a notice to the

municipality in which the proposed dam will be located. The notice shall state the location, height and impoundment of the proposed dam. The municipality may submit data or information pertinent to the department's assessment of public safety. If the department receives such correspondence within 20 days of the town's receipt of the notice, it shall consider the information in issuing a permit to construct or reconstruct the dam.

(b) For Class B and C structures, the department shall notify the municipality of a public hearing to be held by the department in the community in which the dam is located. At the public hearing the dam owner shall present information about the dam and a draft emergency action plan, and the department shall receive comment from the community.

Source. #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.07 Review of Class A, B, or C Proposals. All submitted plans, specifications, and hydrologic/hydraulic information shall be reviewed by the department for compliance in accordance to Env-Wr 307.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.08 Approval. If the application meets the design requirements established in Part Env-Wr 307, the department shall approve the application.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.09 Permit/Registration. Upon review and approval of the application, the department shall issue a permit authorizing the construction or reconstruction. The permit shall include any restrictions, requirements or disclaimers as specified in Env-Wr 305.10. The original permit shall be sent by the department to the registry of deeds of the county in which the dam is located to be recorded and then returned to the department, to be forwarded to the dam owner. A copy of the permit shall be retained by the department. A copy shall be sent to the dam owner at the time of approval until the original is sent.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.10 Conditions of Permit.

- (a) The permit to construct or reconstruct shall be valid for 2 years from the date of issuance. Construction shall be completed within this time period or a time extension shall be requested by the dam owner in accordance with Env-Wr 305.11.
- (b) The construction shall comply with the approved plans and specifications, subject to design changes approved and documented in accordance with Env-Wr 501.02.
- (c) The design engineer shall certify to the department that the dam was constructed in accordance with the approved plans and specification as required by Env-Wr 305.10(b).
- (d) Inspection during construction shall be performed in accordance with the requirements of Env-Wr 501.02.
- (e) The permittee shall notify the department by certified mail the date of commencement of construction.
- (f) The permittee shall notify the department upon completion of construction in accordance with Env-Wr 501.03.
- (g) For Class B and C dams, an emergency action plan shall be completed for the dam in accordance with Env-Wr 505. No water shall be impounded until the EAP is approved by the department.
- (h) The dam owner shall notify the department if the property is sold and shall provide the new owner's name and address.
- (i) The dam owner shall operate and maintain the structure in accordance with the written operation and maintenance procedures submitted in accordance with Env-Wr 307.01(a)(3), and in a manner to insure the public safety, and to cause inspections and repairs to be made, as needed, to insure the safety of the structure.
- (j) The responsibility for demonstrating ownership of flowed lands or flowage rights shall rest with the dam owner.
- (k) Any other conditions appropriate to the specific design, site, and watershed.

Source. #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 305.11 Time Extension. The department shall grant one or more 2 year time extensions, if requested in writing by the dam owner, if the hazard classification or the design requirements outlined in Env-Wr 307 have not changed since the issuance of the original permit.

Source. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

ParT Env-Wr 306 PERMIT APPLICATION PROCEDURE FOR CONSTRUCTING OR
RECONSTRUCTING A MILL DAM

Statutory Authority: RSA 482:1; 2; 17 to 41

Env-Wr 306.01 Applicability. The department shall administer the provisions of RSA 482:1 and RSA 482:2 and require the filing of a dam construction permit application pursuant to RSA 482:9 and RSA 482:29.

[Source.](#) #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 306.02 Procedural Requirements. In addition to the requirements of Env-Wr 301 to Env-Wr 305, the department shall:

- (a) Issue an order of notice pursuant to the requirement of RSA 482:30,I;
- (b) Conduct an investigation to implement the purposes of RSA 482:29 through RSA 482:32;
- (c) Conduct a non-adjudicative public hearing pursuant to the requirement of RSA 482:31, RSA 541-A, and Env-Wr 200;
- (d) Notify the following agencies by forwarding a copy of the order of notice:
 - (1) The public utilities commission;
 - (2) The department of transportation;
 - (3) The division of safety services, marine patrol bureau;
 - (4) The department of resources and economic development;
 - (5) The town administrator for each town in which the dam is located;
 - (6) The applicant and owner of the land upon which the dam is located, if other than applicant;
 - (7) The federal energy regulatory commission (FERC), New York regional office;
 - (8) The N.H. fish and game department;
 - (9) The U.S. fish and wildlife service; and
 - (10) The New Hampshire office of emergency management; and
- (e) Issue an order permitting construction of the dam or denying the request for dam construction

based upon the following:

- (1) The applicant's compliance with the provisions of RSA 482:29;
- (2) Testimony offered during the non-adjudicative hearing pursuant to the provisions of RSA 482:31; and
- (3) The department's data files, the staff's research and recommendation, and any other sources of information relative to the dam site.

Source. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 306.03 Appeals of Department Orders. Appeals of department orders shall be submitted in writing to the water council under the provisions of RSA 21-O:7 and RSA 21-O:14.

Source. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

ParT Env-Wr 307 DESIGN REQUIREMENTS

Env-Wr 307.01 Basic Requirements.

(a) All dam designs shall be submitted to the department for review and, as a minimum, contain the following:

- (1) The results of subsurface explorations, including, but not limited to, borings and/or test pits;
- (2) The results of calculations performed for hydrologic, hydraulic, and structural analyses;
- (3) A written operational procedure for the operation and maintenance of the dam which describes the control of impoundment levels, monitoring and maintenance procedures, and identifies emergency contact personnel; and
- (4) Construction plans and specifications.

(b) Subject to (c), below, the following shall also be required for Class A structures:

- (1) Designs for structures shall be stamped by a professional engineer licensed in the State of New Hampshire and familiar with dam design; and
- (2) The results of a stability analysis of the structure for overturning, sliding, or slope failure, as applicable, including factors of safety.

(c) The owners of Class A earth embankment structures satisfying the minimum embankment slopes recommended in "Design of Small Dams", U.S. Department of Interior, Bureau of Reclamation, Third Edition, 1987, shall be exempted from performing the stability analysis discussed in (b)(2),

above.

(d) The following shall also be required for Class B and C structures:

(1) Designs for structures shall be stamped by a professional engineer licensed in the State of New Hampshire and familiar with dam design;

(2) The results of a stability analysis of the structure for overturning, sliding, or slope failure, as applicable, including factors of safety;

(3) The results of a seepage analysis; and

(4) Preparation of a draft EAP in accordance with Env-Wr 505.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 307.02 Minimum Discharge Requirements.

(a) All new dams shall be capable of safely passing the flow resulting from the precipitation indicated in (c), below.

(b) Hydrologic and hydraulic determinations shall be in accordance with Env-Wr 307.03 and Env-Wr 307.04.

(c) Design precipitation shall be determined in accordance with: USDA SCS Technical Release 60, "Earth Dams and Reservoirs", Revised October 1985; and U.S. Dept. of Commerce, National Oceanic and Atmospheric Administration, Hydrometeorological Report No. 51, June 1978; as follows:

(1) Class AA structures, 50 year, 24 hour precipitation;

(2) Class A structures, 0.3 probable maximum precipitation (PMP) or 100 year, 24 hour precipitation;

(3) Class B structures, 0.5 PMP;

(4) Class C structures, PMP;

(d) All Class A, B, and C dams, with the exception of dams impounding liquid industrial, agricultural, or commercial wastes, or municipal sewage, shall be equipped with a pond drain.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 307.03 Hydrologic Investigations.

- (a) Hydrologic investigations shall be performed on the entire contributing drainage area.
- (b) The hydrologic investigation shall take the following into consideration:
 - (1) The expected design precipitation for the particular classification of the structure;
 - (2) Adjustment of precipitation for varying amounts of precipitation throughout the watershed;
 - (3) Antecedent moisture condition;
 - (4) Ground slopes;
 - (5) Soil types;
 - (6) Vegetation;
 - (7) Size of the drainage area;
 - (8) Shape of the drainage area; and
 - (9) Ponds, swamps and other factors affecting the amount and rate of runoff.
- (c) Hydrographs shall be prepared for all class B and C structures to determine peak rates of flow in accordance with USDA SCS National Engineering Handbook Sec. 4, Hydrology, 1969, which presents an acceptable technique for formulation of hydrologic data. Computer modeling programs SCS, TR-20 or Hydrologic Engineering Center-1, Flood Hydrograph Package may be used to develop hydrographs or an alternate technique approved in accordance with (e), below. Antecedent moisture condition II or greater shall be assumed in determining rates of runoffs.
- (d) The designer of class A structures having a drainage area less than 2,000 acres shall have the option of using the 100 year 24 hour precipitation and procedures noted in USDA, SCS Technical Release No. 55 June 1986; or Chapter 6 of Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, August 1992 which document both the TR-55 and TR-20 methods; or USDA, SCS Technical Release No. 20 procedures, in lieu of (c), above for determining peak rates of flow.
- (e) Designers wishing to use other techniques for determining peak rates of flow shall submit a written description of the technique to the department for each particular site prior to using the technique. If the department determines that the technique addresses the same parameters as those addressed by the techniques specified in (c) and (d), above, the department shall approve the

technique for use on that site and shall so notify the designer in writing. Approval of other techniques shall not be assumed.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 307.04 Hydraulic Determinations.

(a) Because the engineering science of hydraulics is documented in many competent texts, most of which rely on the same basic concepts, relationships and formulas, the designer may use any text, combination of texts, or related computer software applications for their design analysis. One or more of the following texts shall be used in evaluating the competence of the submitted design: "National Engineering Handbook, Section 5, Hydraulics" by USDA SCS, "Handbook of Hydraulics", Sixth Edition, by Horace W. King and Earnest F. Brater, Mcgraw Hill Book Co., 1976.

(b) All dams shall be designed to safely discharge the flow resulting from the design precipitation with a minimum of one foot of remaining freeboard. The calculation of freeboard requirements shall be based upon the size of the impoundment, expected wave action and other considerations such as slope of the upstream face, and texture of the slope. The crest of wave action shall be computed based upon maximum wave height and wave rideup, assuming the pond elevation is at an elevation resulting from the design precipitation.

(c) The dam shall have sufficient discharge capacity, without manual operation, to safely pass the flow resulting from the design precipitation.

(d) The use of surcharge storage and the routing of floods through the reservoir shall be accepted for reducing the required discharge capacity of the structure. If routing is to be used to determine discharge capacity, the ability of the structure to pass sustained heavy flows shall be evaluated in accordance with Env-Wr 307.05-08.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 307.05 Concrete Design Criteria. Because the design of concrete structures is documented in many competent texts, the designer may use any text, combination of texts or related computer software application. One or more of the following texts shall be used in evaluating the competence of the submitted design: "American Concrete Institute, Building Code Requirements for Reinforced Concrete, (ACI 318-95), dated 1995, or "Design of Small Dams" by US Department of Interior, Bureau of Reclamation, third Edition, 1987 or "National Engineering Handbook, Section 6, Structural Design", USDA SCS.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 307.06 Steel Design Criteria. Because the design of steel structures is documented in many competent texts, the designer may use any text, combination of texts or related computer software applications. One or more of the following texts shall be used in evaluating the competence of the submitted design: "Manual of Steel Construction" by the American Institute of Steel Construction, Ninth Edition, First Revision, 1991 or "National Engineering Handbook, Section 6, Structural Design" USDA SCS.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 307.07 Timber Design Criteria. Because the design of timber structures is documented in many competent texts, the designer may use any text, combination of texts or related computer software applications. One or more of the following texts shall be used in evaluating the competence of the submitted design: "Timber Construction Manual" by the American Institute of Timber Construction, Fourth Edition, dated 1994, or the "National Engineering Handbook, Section 6, Structural Design" USDA SCS.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 307.08 Earth Embankment Design Criteria. Because the design of earth embankments is documented in many competent texts, the designer may use any text, combination of texts or related computer software applications. One or more of the following texts shall be used in evaluating the competence of the submitted design: USDA SCS Technical Release 60 (TR 60) revised October 1985; "Design of Small Dams" U.S. Department of Interior, Bureau of Reclamation, Third Edition, 1987; or for Class "A" dams only, "Detention and Retention Basins" BMP in the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire publication dated August 1992; or Agricultural Handbook No. 590, June 1982.

Source. #1716, eff 2-20-81; ss by #2207,
eff 12-13-82; ss by #2900, eff 11-7-84,
EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B,
eff 2-21-97

ChAPTER Env-Wr 400 WATER INVESTIGATIONS AND STUDIES

ParT Env-Wr 401 LAKE LEVELS

Statutory Authority: RSA 482:4 and RSA 482:79-83

Env-Wr 401.01 Formal Request.

- (a) All requests for lake level investigations pursuant to RSA 482:79 shall be in writing and addressed to the department.
- (b) All requests shall state clearly the complaint and the reason(s) for it.
- (c) All requests shall be signed by at least 10 property owners whose land abuts the waterbody.

Source. #1716, eff 2-20-81; ss by #2207,
eff 12-13-82; ss by #2900, eff 11-7-84,
EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B,
eff 2-21-97

Env-Wr 401.02 Preliminary Investigation.

(a) The Department shall commence a preliminary investigation of conditions affecting the use and enjoyment of the waterbody, under any of the following circumstances:

- (1) Upon receipt of a complaint per Env-Wr 401.01;
- (2) Upon request of the Attorney General; or
- (3) Upon a department motion pursuant to RSA 482:79.

(b) The department shall investigate:

- (1) The current and past management and control of the outlet;
- (2) The lake level effects, if any, on the value of shore property above the outlet;
- (3) The lake level effects, if any, on riparian rights below the outlet; and

(4) The lake level effects, if any, on enjoyment of the water by the public.

(c) Based upon the preliminary investigation, the department shall determine if the management and control of the outlet is causing serious and adverse effect upon any of the lake level effect factors identified in (b)(2) through (4), above.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 401.03 Further Investigation and Public Hearing. If there is a finding of serious and adverse effect under Env-Wr 401.02(c), the department shall conduct a further investigation.

(a) The further investigation shall:

(1) Ascertain the respective rights of all interested persons by considering whether:

- a. The dam is registered with the department;
- b. Any clear deeded flowage limits are not exceeded;
- c. Base flows are sufficient to accommodate downstream riparian rights;
- d. The operation is in accordance with any deeded rights associated with the former mill dam act, RSA 482:17 through RSA 482:41; and
- e. Other considerations exist within the limits of RSA 482.

(2) Ascertain the rights of the public by considering the following:

- a. Fishing;
- b. Ecological health;
- c. Navigation;
- d. Swimming; and
- e. Other recreation; and

(3) Consider all testimony presented at the public hearing held in accordance with Env-Wr 208.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 401.04 Findings. After completing its further investigation in accordance with Env-Wr 401.03, the department shall issue findings whether:

- (a) The value of shore property above the outlet is seriously and adversely affected by the management and control of the outlet.
- (b) The value of the riparian rights below the outlet is seriously and adversely affected by the management and control of the outlet.
- (c) The enjoyment by the public is seriously and adversely affected by the management and control of the outlet.
- (d) The management and control of the outlet is lawful.
- (e) The management and control of the outlet is in the public interest.
- (f) Changes to the manner of the exercise of the right of management and control would be of benefit to the public and private interests concerned.
- (g) Any changes in management and control recommended by the department pursuant to this section would unduly injure the owner of the outlet.
- (h) Changes in the management and control in the public interest would deprive the owner of the outlet of rights to which they are lawfully entitled.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #5080, eff 2-22-91

New. #6462-B, eff 2-21-97

Env-Wr 401.05 Report of Findings, Decision. Based upon its findings, the department shall:

- (a) Order no change in the management and control of the outlet if it finds no serious and adverse effect from present management, or if it does not find change to be in the public interest.
- (b) Order changes in the management and control of the outlet, if the change would be of general benefit without undue injury to the owner.
- (c) Report to the governor and council its findings including estimate of all damages if it finds

changes in the management and control would be in the public interest but would deprive the owner or others to rights to which they are lawfully entitled.

(d) Report to the attorney general if the management and control of the outlet is unlawful and contrary to the public interest.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #5080, eff 2-22-91

New. #6462-B, eff 2-21-97

ParT Env-Wr 402 REGULATION OF FLOW

Statutory Authority: R.S.A. 482:1 and R.S.A. 482:4

Env-Wr 402.01 Keep Records/Investigate. In order to carry out its obligations, the department shall investigate and keep records of the flows of rivers and streams under any and all conditions, and in cooperation with other state and federal agencies.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 402.02 During Emergencies. Pursuant to R.S.A. 482:4, whenever an emergency exists, whether due to drought or flood whereby the public health or safety may be jeopardized by the release or withholding of stored waters, the department shall direct such action by the dam owner as shall be necessary to protect the public health or safety.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 402.03 Other Situations. Other situations that the department shall investigate shall include the following:

(a) The flooding of lands and property along lakes, rivers and streams during or as a result of storms and spring snowmelt;

(b) The operation of reservoirs in anticipation of potentially damaging high spring flows which result from storms and snowmelt;

- (c) The storage of water at times of high flows to augment low flows;
- (d) The regulation of flows from reservoirs to supply or augment municipal water supply or fire protection/prevention systems;
- (e) The regulation of flows from reservoirs to dilute industrial or municipal wastes;
- (f) The regulation of flows from reservoirs to improve recreational facilities;
- (g) The regulation of flows from reservoirs for the production of hydro power; and
- (h) The regulation of flows in any other way that affects public health, safety and recreation.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

ParT Env-Wr 403 REPEALED

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; rpld by #6462-B, eff 2-21-97

ParT Env-Wr 404 REPEALED

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; rpld by #6462-B, eff 2-21-97

ParT Env-Wr 405 REPEALED

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; rpld by #6462-B, eff 2-21-97

CHAPTER Env-Wr 500 DAM INSPECTION

ParT Env-Wr 501 NEW CONSTRUCTION/RECONSTRUCTION

Env-Wr 501.01 Preconstruction Inspection. Upon receipt of an application, the department shall inspect the site of the proposed construction and downstream reach, and evaluate:

(a) Factors affecting the hazard potential classification of the proposed structure, including, but not limited to:

(1) The presence of structures and roadways; and

(2) Downstream topography; and

(b) The effect of reconstruction of an existing structure.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 501.02 Construction Inspections.

(a) The dam owner shall provide an independent inspector, familiar with dam construction, to ensure compliance with approved plans and specifications.

(b) The inspector shall be a professional engineer licensed in New Hampshire, with a minimum of 5 years of engineering experience related to construction inspection or design of similar dam construction projects.

(c) The inspector may assign some inspection tasks to a duly authorized agent provided that the agent's inspection tasks shall be explicitly identified in the construction inspection plan described in (f), below.

(d) The inspector shall be responsible for ensuring the accurate completion of all inspection tasks.

(e) The construction inspector's resume of related construction inspection or design experience shall be submitted to the department for review and approval. Department approval shall be based upon satisfaction of the criteria of (b), above.

(f) Construction inspections shall be performed in accordance with a written plan submitted by the dam owner and approved by the department.

(g) The plan required by (f) above shall contain detailed information relative, but not limited, to the following:

(1) Construction activities which shall be monitored and by whom;

(2) Field tests to be performed and the frequency of testing;

(3) Material testing requirements; and

(4) Documentation and reporting requirements, including inspection reports and construction progress photographs.

(h) The frequency of inspections shall be as follows:

(1) For class A structures:

a. Inspections shall be as frequent as needed to ensure compliance with approved plans and specifications;

b. Structures shall be inspected during major items of work including but not limited to:

1. Excavation;

2. Pipe placement;

3. Placement of graded aggregate drain materials;

4. Earthfill;

5. Cut-off construction;

6. Steel placement;

7. Final grading; and

8. Pouring of concrete.

(2) Class B and C structures shall have continuous on-site inspections unless specifically exempted by the approved construction inspection plan for particular items of work.

(i) Any changes from the approved plans and specifications shall be approved by the design engineer and submitted to the department for review. If the proposed change meets the requirements of Env-Wr 307, the change shall be approved by the department. Approvals may be granted verbally provided written approval is subsequently documented.

(j) The inspector shall submit an inspection report to the department upon the completion of the project. The report shall include a copy of all test results, inspection reports, representative construction progress photographs, changes in design, foundation conditions observed during excavation and any other data pertinent to determining the integrity of the structure. "As-built" drawings shall be submitted if the original design is modified.

(k) The design engineer shall provide the department with an affidavit of compliance with approved plans and specifications upon completion of the project.

(l) The affidavit required by (k) above shall include a statement that the dam was constructed in accordance with the approved plans and specifications, or pre-approved design changes.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4580, eff 2-27-89; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 501.03 Inspection Prior to Filling.

(a) The dam owner shall notify the department by first class mail, return receipt requested, upon the completion of construction of any class A, B or C structure, prior to the filling of the reservoir. The notice shall include the information required in Env-Wr 501.02(j) and (k).

(b) The owner shall fill the reservoir only after the dam is inspected by the department and, for Class B and C structures, the final EAP is approved.

(c) Within 10 working days of receipt of notice from the owner, the department shall perform a final visual inspection with the reservoir drained.

(d) The department shall either authorize filling of the reservoir by issuance of a certificate of approval or order remedial action for noncompliance with the approved plans and specifications.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4580, eff 2-27-89; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

ParT Env-Wr 502 STATE DAM INSPECTION PROGRAM

Statutory Authority: RSA 482:12

Env-Wr 502.01 Maintain Inventory. The department shall maintain an inventory of all dams in the state as to size, location, condition and hazard potential classification.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 502.02 Periodic Inspection.

(a) The department shall periodically inspect all potentially hazardous dams in accordance with the following frequency:

- (1) Class A structures, every 6 years;
- (2) Class B structures, every 4 years;
- (3) Class C structures, every 2 years; and
- (4) Any Class A or AA dam which has a height of 25' or more or which has a storage capacity of 50-acre-feet or more shall be inspected at least once every 5 years.

(b) The time periods listed above shall be the maximum time between inspections, and more frequent inspections shall be performed as needed.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 502.03 Inspection by Public Request.

(a) An individual requesting an inspection of any dam which, in the opinion of that individual, threatens public safety or property shall put such request in writing to the department. The department shall initiate an investigation.

(b) The written request for inspection shall include:

- (1) The location of the dam or waterbody;
- (2) The owner, if known; and
- (3) A statement describing how and/or why it is believed the dam poses a threat to public safety or property.

(c) The department shall notify the dam owner of record of the inspection request and subsequent results.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

Env-Wr 502.04 Implement Findings. The department shall implement its findings in accordance with Env-Wr 504.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4580, eff 2-27-89; ss by #5080, eff 2-22-91; ss by #6462-B, eff 2-21-97

ParT Env-Wr 503 DAMS IN DISREPAIR

Env-Wr 503.01 Inspection. Dams in disrepair shall be inspected to verify categorization in accordance with the definition in RSA 482:2,I.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #4534, eff 11-30-88

New. #6462-B, eff 2-21-97 (from Env-Wr 504.01)

ParT Env-Wr 504 IMPLEMENTATION OF FINDINGS

Env-Wr 504.01 Applicability. When, as a result of an inspection, it is determined that a class A, B, or C structure, is in need of actions by the dam owner to protect the public safety, the department shall proceed in accordance with this part.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 505.01)

Env-Wr 504.02 Determination. The department shall determine:

(a) If the hazard potential classification should remain as it is or be changed as a result of development in the area;

(b) What repairs, if any, shall be required to maintain the integrity of the structure;

- (c) What amount of time, based upon the time of year, the work scope, and the hazard potential, shall be allowed for performing the required repairs;
- (d) What further engineering evaluations or investigations, if any, shall be required to be made by the dam owner; and
- (e) The need for preparation of an emergency action plan (EAP) by the dam owner. The EAP shall be prepared in accordance with Env-Wr 505.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

New. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 505.02)

Env-Wr 504.03 Preliminary Order. The department shall issue a preliminary order to the owner providing:

- (a) The name of the structure, and the state dam number;
- (b) The statutory provisions authorizing department action;
- (c) A summary of the department's findings;
- (d) One or more of the following directives, as appropriate:
 - (1) Necessary dam repairs and the time period allowed for their completion;
 - (2) Further engineering evaluations or investigations required and the time period allowed for their completion; and
 - (3) The need to develop an operations plan and/or EAP; and
- (e) The owner's right to a hearing pursuant to Env-Wr 200.

Source. #6462-B, eff 2-21-97 (from Env-Wr 505.03)

Env-Wr 504.04 Hearing Waived, Order Effective.

- (a) The dam owner may forego the adjudicatory hearing if the owner agrees to complete the work which the department has found necessary, by signing a waiver form and returning it to the department within 30 days.

(b) A waiver form shall include:

(1) Dam number;

(2) Date of order;

(3) A statement that owner waives his right to a hearing as provided by RSA 482:12 and RSA 21-O:7, and that the findings and determinations become an order on the date signed by the commissioner; and

(4) Space for owner's signature.

(c) If the dam owner submits said form, the order shall become effective upon the date signed by the commissioner.

[Source.](#) #6462-B, eff 2-21-97 (from Env-Wr 505.04)

Env-Wr 504.05 Hearing and Notice. If the owner does not waive his/her right to a hearing, a hearing shall be conducted, and a notice provided in accordance with RSA 541-A:31,III.

[Source.](#) #6462-B, eff 2-21-97 (from Env-Wr 505.05)

Env-Wr 504.06 Review of Hearing File, Decision, Order.

(a) The presiding officer shall review the inspection report, testimony received at the hearing, any other pertinent documentation which was entered in the record of hearing, and findings submitted by any party to the hearing, and decide whether the original requirements as stated in the preliminary order shall be revised or stand as originally stated.

(b) The department, based upon the recommendation of the presiding officer, shall issue a final order stating the required repairs or investigations and the time allowed for compliance. The order shall be sent by certified mail to the dam owner.

(c) Copies of the final order shall be sent to:

(1) The town in which the dam is located;

(2) The registry of deeds of the county in which the dam is located; and

(3) The federal energy regulatory commission, if applicable.

[Source.](#) #6462-B, eff 2-21-97 (from Env-Wr 505.06)

Env-Wr 504.07 Appeal of Order to Council. A dam owner who is not satisfied with the decision and order executed by the department may appeal the order to the water council.

[Source](#). #6462-B, eff 2-21-97 (from Env-Wr 505.07)

Env-Wr 504.08 Breach/Removal Alternative. The dam owner may elect to remove or breach the structure so that it will no longer impound water during the storm event specified in Env-Wr 504.10, rather than performing the needed repairs. The owner shall submit a proposal for approval in accordance to Env-Wr 504.10.

[Source](#). #6462-B, eff 2-21-97 (from Env-Wr 505.08)

Env-Wr 504.09 Notification to Public. A dam owner who proposes to breach a structure shall provide notification to the local governing body in accordance with RSA 482:13.

[Source](#). #6462-B, eff 2-21-97

Env-Wr 504.10 Criteria and Procedure for Breach/Removal Approval.

(a) The proposal to breach or remove a dam pursuant to Env-Wr 505.08 shall be submitted in writing by the dam owner to the department.

(b) The proposal to breach or remove a dam shall contain the following information:

- (1) The location of the dam, including municipality and waterbody;
- (2) The hazard classification of the dam;
- (3) The amount of water currently impounded by the dam;
- (4) The method by which the dam owner proposes to breach or remove the dam so as to meet the criteria of paragraph (c), (d), or (e), as applicable; and
- (5) The name(s) and address(es) of the person(s) who is proposed to perform the work.

(c) For Class AA dams, the structure shall be breached so that it shall not impound water during the 25 year storm.

(d) For Class A dams, the structure shall be breached so that it shall not impound water during the 50-year storm.

(e) For Class B and C dams, the structure shall be breached so that it shall not impound water during the 100-year storm.

(f) If the department determines that the criteria of paragraph (c), (d), or (e), as applicable, will be met and that the breach or removal is proposed to be performed in a manner that will not cause flooding or other damage downstream of the dam, the department shall approve the proposal and shall so notify the dam owner.

[Source.](#) #6462-B, eff 2-21-97 (from Env-Wr 505.09)

Env-Wr 504.11 Lowering of Impoundment. The dam owner may submit a proposal to modify the dam to permanently reduce its impoundment, and request a reconsideration of the hazard classification for the altered structure. If the department determines that the altered structure will be classified as Class "AA", it shall allow the alteration in lieu of required repairs. The dam owner shall provide notification to the public of the proposed modification in accordance with RSA 482:13.

[Source.](#) #6462-B, eff 2-21-97 (from Env-Wr 505.10)

Env-Wr 504.12 Compliance Inspection. Inspections shall be made by the department, to ensure timely compliance with the order.

[Source.](#) #6462-B, eff 2-21-97 (from Env-Wr 505.11)

Env-Wr 504.13 Request for Time Extension.

(a) Request for time extension shall be submitted in writing to the department with the following information:

- (1) The reason(s) why an extension is needed;
- (2) The current status of the repairs or investigations; and
- (3) The length of time of extension requested.

(b) The department shall review and issue a decision on the request for time extension, based on, but not limited to, the following factors:

- (1) Weather conditions that prevent the owner from performing the required work;
- (2) Request for extension is for finishing the required repairs that are in progress; or
- (3) Difficulty in obtaining necessary federal, state or local permits.

(c) If the department denies the request, the department shall, within 30 days of receipt of the time extension request, notify the dam owner by certified mail and shall state the reason(s) for the denial.

(d) If the department grants the time extension, the dam owner shall be notified by certified mail.

[Source.](#) #6462-B, eff 2-21-97 (from Env-Wr 505.13)

ParT Env-Wr 505 EMERGENCY ACTION PLAN

Env-Wr 505.01 Purpose and Applicability.

(a) These rules are for the purpose of defining the requirements of an acceptable emergency action plan (EAP).

(b) Subject to (c) and (d) below, an EAP shall be prepared in accordance with these rules for all Class B and Class C dams as defined by Env-Wr 101.

(c) EAPS for dams subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) shall be prepared in accordance with the FERC requirements and shall be filed with the department.

(d) EAPs for the following U.S. Army Corps of Engineers (USACE) dams shall be prepared in accordance with USACE requirements and shall be filed with the department:

(1) Franklin Falls Dam;

(2) Blackwater Dam;

(3) Hopkinton-Everett Dams;

(4) Edward MacDowell Dam;

(5) Otter Brook Dam; and

(6) Surrey Mountain Dam.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4580, eff 2-27-89; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.01)

Env-Wr 505.02 Definitions.

(a) "100 year flood flow" means the routed flow that has a one chance in 100 of being equaled or exceeded in a period of one year.

(b) "Emergency condition" means a potentially hazardous situation has developed at a dam, or

failure of a dam is imminent or has occurred.

(c) "Inflow design flood" means the inflow design flood as defined in FERC 0119-2 Chapter 2 Section 3, "Engineering Guidelines for The Evaluation of Hydropower Projects", October 1993.

(d) "Potentially hazardous situation" means a serious situation which could jeopardize the integrity of a dam.

(e) "Sunny day flow" means the flow occurring in a river or stream channel during normal hydrologic conditions.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4452, eff 8-1-88; amd by #4580, eff 2-27-89; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.02)

Env-Wr 505.03 Procedures.

(a) Unless exempted pursuant to Env-Wr 505.10, prior to preparing an EAP the dam owner shall have a dam breach analysis performed in accordance with Env-Wr 505.05 through Env-Wr 505.07.

(b) The department shall review the dam breach analysis in accordance with Env-Wr 505.09.

(c) Upon receiving approval of dam breach analysis, the dam owner shall prepare an EAP in accordance with Env-Wr 505.13 through Env-Wr 505.25 and shall submit it to the department.

(d) The department shall review and approve the EAP if it meets criteria as stated in Env-Wr 505.13 through Env-Wr 505.25.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.03)

Env-Wr 505.04 Filing and Notification. Dam owners other than those identified in Env-Wr 505.01

(c) and (d) shall file the approved EAP with the following:

(a) The local community(ies);

(b) The local emergency management director(s);

(c) The New Hampshire Office of Emergency Management (N.H.O.E.M.);

- (d) The department of environmental services, water division;
- (e) The New Hampshire state police; and
- (f) Other downstream dam owners who would be affected by a dam breach.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.04)

Env-Wr 505.05 Dam Breach Analysis.

- (a) The dam breach analysis shall be performed and stamped by a professional engineer licensed in New Hampshire and experienced in hydrology and hydraulics.
- (b) The breach parameters shall be in accordance with Table 5.1 and Figure 5.1 below:

Table 5.1 Dam Breach Parameters

ParAMETER TYPE OF DAM VALUE

Average Width of Breach Arch = Crest Length

() Masonry, Gravity = Width of 1 or more monoliths, usually @0.5W

Earth, Rockfill, Timber HD @ @ 5HD Crib

(usually between 2HD & 4HD)

Horizontal Component of Arch 0 @ Z @ slope of valley

Side Slope of Breach (Z) walls

Masonry, Gravity, Timber Z = 0

Crib

Earthen (Engineered, ? @ Z @ 1

Compacted)

Time to Failure (TFH) in Arch TFH @ 0.1

hours

Masonry, Gravity 0.1 @ TFH @ 0.3

Earthen (Engineered, 0.1 @ TFH @ 1.0

Compacted) Timber Crib

Earthen (Non Engineered, 0.1 @ THF @ 0.5

Poor Construction)

(c) A dam breach flow shall be routed together with each of the following baseflows:

(1) The sunny day flow as defined in Env-Wr 505.02(e); and either (2) or (3), below;

(2) The 100 year flood flow, as defined in Env-Wr 505.02(a); or

(3) For FERC hydropower facilities, the inflow design flood as defined in Env-Wr 505.02(c).

(d) The breach flow together with the baseflows as determined in (c) above shall be routed downstream of the dam and shall include provisions to identify the number of hours or minutes from the start of a failure to the time when the river initially starts to rise and the time to reach peak stage. Flow velocities shall also be determined. These values shall be shown on the inundation map for critical stations such as road crossings and populated areas, below the dam.

(e) The routing shall continue downstream until the hydrograph intercepts the profile which is two feet above the 100 year flood flow in areas of potential threat to life and/or major property damage. Termination of the study area upstream of the aforementioned intercept shall be permitted if it is shown that no threat to public safety is anticipated beyond that point.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.05)

Env-Wr 505.06 Methods of Breach Routing.

(a) The dam owner shall use one of the following routing methods for dam breach analysis:

(1) Methods and procedures used by the United States Department of Agriculture, Soil

Conservation Service in Technical Release T.R. 66 "Simplified Dam Breach Routing Procedures", March 1979, and Computer Program for Project Formulation Hydrology, T.R. 20, March 1986, and WSP 2 Computer Program, T.R. 61, May 1976, which shall be used in conjunction; or

(2) Methods and procedures using the National Weather Service (NWS) Dam-Break Flood Forecasting Model authored by Dr. Danny L. Fread, from the National Weather Service in Silver Springs, Maryland, dated July 18, 1984, reprinted February 1987.

(b) Owners wishing to use other techniques for breach routing shall submit a written description of the technique to the department for each particular site prior to using the technique. If the department determines that the technique addresses the same parameters as those addressed by the techniques specified in paragraph (a) above, the department shall approve the technique for use on that site and shall so notify the owner in writing. Approval of other techniques shall not be assumed.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; rpld by #4534, eff 11-30-88; #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.06)

Env-Wr 505.07 Dams in Series. When there are dams in series the dam owner shall use the following procedures:

(a) The dam owner shall perform a hydraulic analysis of downstream structures using the routed breach flow together with the worst case flood flow up to the 100 year flood flow.

(b) If a downstream dam is not overtopped no stability analysis of this structure shall be required.

(c) If a downstream dam is overtopped, the dam owner shall:

(1) Presume failure and include release of storage from the downstream dam in the dam breach analysis; or

(2) Perform stability analysis on the downstream dam in accordance with Env-Wr 307.

(d) If the stability analysis indicates that a downstream dam is unstable during overtopping, the dam owner shall include the release of storage from this dam in the dam breach analysis.

(e) If the stability analysis indicates that a downstream dam is stable, no additional discharges shall be included in the dam breach analysis.

[Source.](#) #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.07)

Env-Wr 505.08 Inundation Mapping.

(a) The results of the breach analysis shall be used to delineate the limits of the potential flooding downstream of the dam, as determined in accordance with Env-Wr 505.05, on appropriate base maps. The maps shall be of sufficient scale and detail to clearly identify physical features in the flooded area. The dam owner shall produce a map which the local community(ies) can use in effectively planning evacuation procedures.

(b) One of the following maps shall be used to delineate the inundated area:

(1) USGS topographic maps of 1:25000 or 1:24000 scale;

(2) Local tax maps which clearly identify physical features, including structures; or

(3) Any maps which clearly identify physical features in the inundated areas.

(c) Critical areas such as road crossings and populated areas shall be identified and values, as determined in Env-Wr 505.05(d), shall be included on the map.

(d) If the inundation map consists of several pages, the EAP shall include an index map which clearly directs the user to the appropriate map for a given area.

Source. #4534, eff 11-30-88; ss by
#5080, eff 2-22-91; ss and moved by
#6462-B, eff 2-21-97 (formerly Env-Wr
506.08)

Env-Wr 505.09 Review of Breach Analysis and Inundation Mapping by Department.

(a) The dam owner shall submit the following to the department for review:

(1) Inundation maps;

(2) Hydraulic breach assumptions and base flow criteria;

(3) Structural stability analyses; and

(4) Summary of the results of the breach analysis.

(b) The department shall, within a period of 60 days, review the above items.

(c) If information submitted requires clarification or if required information in (a) is omitted, the department shall notify the owner for submittal of such information.

(d) Upon final acceptance by the department of the items as described in (a) above the department shall notify the dam owner in writing to proceed with the development of the EAP.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; ss by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.09)

Env-Wr 505.10 Exemption from Breach Analysis. Dam owners shall be exempted from the development of a breach analysis if any of the following apply:

- (a) The hazard classification is based solely on the potential damage to existing bridge(s) or roadway(s) located below the dam, and no other damages will result from a dam breach.
- (b) An evaluation of the area downstream of the dam by the department, using hydrologic and hydraulic analysis, can clearly and unquestionably identify the potential damage to isolated private or public property which would be incurred as the result of a dam failure, in which case the dam owner may reference those structures downstream of the dam on maps as described in Env-Wr 505.08(b) without conducting a formal breach analysis.

Source. #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (from Env-Wr 506.10)

Env-Wr 505.11 Notification of Breach Analysis Exemption. The dam owner shall be notified in writing if the dam qualifies for a dam breach analysis exemption.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.11)

Env-Wr 505.12 Repeal of Breach Analysis Exemption. Any exemption conferred under Env-Wr 505.11 shall be reviewed by the department during periodic inspection. If downstream developments have changed such that new structures would be affected by a dam failure, the exemption shall be repealed. The department shall notify the owner in writing that a dam breach analysis, as described in Env-Wr 505.05 through 505.07, shall be required due to the new developments downstream of the dam.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; ss by #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.12)

Env-Wr 505.13 Format of the EAP.

(a) The format of the completed EAP shall be 8 1/2 x 11 loose-leaf paper in a 3-ring binder to allow for ease of supplementation and revision as required.

(b) The content of the EAP shall be standardized as follows:

- (1) Table of contents;
- (2) Notification flow chart;
- (3) General responsibilities under the EAP;
- (4) Notification procedures;
- (5) Preventive action, including:
 - a. Monitor checklist; and
 - b. Plan of dam structure; and
- (6) Appendices, including:
 - a. Project description;
 - b. Impact of breach;
 - c. Inundation map;
 - d. Training and annual testing;
 - e. Local evacuation procedure;
 - f. Posting of the plan; and
 - g. Documentation.

Source. #5080, eff 2-22-91; ss and moved by #6462-B, eff 2-21-97 (formerly Env-Wr 506.13)

Env-Wr 505.14 Emergency Communication Network. The EAP shall include a notification flow chart listing the individuals, and local, and state government agencies to be notified during a potentially hazardous situation or an emergency condition at the dam. The EAP shall include a separate checklist sheet for each individual, local, or state government agency indicating their role and responsibility in the EAP. Provisions in the EAP shall outline for each individual, local, or state

government agency a checklist of instructions for prescribed emergency action.

Source. #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84; amd by #4534, eff 11-30-88; amd by #4580, eff 2-27-89; rpld by #5080, eff 2-22-91

New. #6462-B, eff 2-21-97 (formerly Env-Wr 506.14)

Env-Wr 505.15 Preventive Action. The EAP shall include a section on preventive action.

(a) The section on preventive action shall identify the following:

- (1) Indicate actions which the monitor shall take to correct a malfunction of the dam;
- (2) Provide the means, materials and equipment to make emergency repairs to the structure;
- (3) Provide the necessary training and equipment including alternative power sources to operate the structure; and
- (4) Provide a list of preventive and mitigative action measures to be undertaken during emergency situations.

Source. #6462-B, eff 2-21-97 (formerly Env-Wr 506.15)

Env-Wr 505.16 Warning.

(a) The monitor shall be thoroughly familiar with the 2 types of warnings and the types of scenarios which would produce each type of warning. The designated local officials shall also be familiar with the dam and the meaning of the types of warnings.

(b) The following 2 warning phases shall be addressed in the EAP:

- (1) A potentially hazardous situation as defined in Env-Wr 505.02(d) is developing; and
- (2) An emergency condition has occurred.

Source. #6462-B, eff 2-21-97 (formerly Env-Wr 506.16)

Env-Wr 505.17 Monitoring.

(a) The dam owner shall monitor or assign monitors to the dam during periods of heavy precipitation, flooding or unusual hydrologic events and potentially dangerous structural conditions.

(b) The monitor(s) shall:

- (1) Be properly trained in the operation of the dam;
- (2) Have authority from the dam owner to operate the structure during emergency situations;
- (3) Be trained in observing and locating various signs of abnormal situations for the particular dam;
and
- (4) Be capable of being at the site within a period of 2 hours during periods of heavy precipitation, flooding or unusual hydrologic events and potentially dangerous structural conditions.

(c) The dam owner shall provide an adequate communication system between the monitor and the local communities.

(d) The following information regarding the monitor(s) shall be addressed in the EAP:

- (1) Name, address and home and business telephone numbers;
- (2) Type of training provided by dam owner; and
- (3) Type of communication system between dam and local community.

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.17)

Env-Wr 505.18 Coordination with Local Community. The dam owner shall supply the local community(ies) with an inundation map for their potential use in developing an evacuation plan.

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.18)

Env-Wr 505.19 Evacuation and Recovery. The dam owner shall include any evacuation and recovery plans developed by the communities.

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.19)

Env-Wr 505.20 List of Official EAP Holders. The dam owner shall retain the names, mailing addresses, and telephone numbers of all individuals, local and/or state agencies having official copies of the EAP.

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.20)

Env-Wr 505.21 Acknowledgment of EAP by Local Community(ies).

(a) The dam owner shall obtain signed statements from each affected community in the inundation area acknowledging the approval of its role in the EAP.

(b) If community(ies) refuses to provide such statement, the owner shall notify the department certifying that a copy of the EAP has been delivered to the community(ies).

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.21)

Env-Wr 505.22 EAP Review and Approval by Department. The owner shall submit 2 copies of the draft EAP to the department for review. The department shall, in conjunction with the N.H.O.E.M., review the document for compliance with Part Env-Wr 505. Within 60 days of submittal the department shall notify the owner of its approval of the EAP or of any inadequacies. The department shall have the responsibility for final approval of the EAP.

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.22)

Env-Wr 505.23 Public Notice. The dam owner shall cooperate with the local community(ies) if a request is made to provide information relative to the provisions of the EAP to the general public through informal meeting or by mail.

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.23)

Env-Wr 505.24 Notification Test.

(a) The dam owner shall conduct a test of the emergency communication network, as described in Env-Wr 505.14, within one month of approval of the EAP and every year thereafter.

(b) The test shall consist of the owner telephoning any one individual or agency identified on the notification flow chart, and indicating that a hypothetical hazardous situation or emergency condition exists at the dam.

(c) The individual or agency contacted by the owner shall then execute its duties relative to the notification flow chart as defined in the EAP.

(d) Within 14 days of conducting the test, the owner shall forward to the department the results of the test, which shall include records of communication for each individual or agency, including time of contact and person contacted.

[Source.](#) #6462-B, eff 2-21-97 (formerly
Env-Wr 506.24)

Env-Wr 505.25 Review and Changes.

- (a) The dam owner shall notify the list of official EAP holders, in writing, of any changes to the EAP.
- (b) The dam owner shall review the entire EAP annually, to ensure the accuracy of the communication flowchart and inundation areas.
- (c) The dam owner shall submit written documentation to the department that the annual review of the EAP was performed, by providing one of the following:
 - (1) A statement that the EAP was reviewed and that no changes to the EAP were necessary; or
 - (2) Any applicable sections of the EAP which required revision.

[Source](#). #6462-B, eff 2-21-97 (formerly Env-Wr 506.25)

ChAPTER Env-Wr 600 ACQUISITION AND DISPOSITION OF PROPERTY - EXPIRED

[Source](#). #1716, eff 2-20-81; ss by #2207, eff 12-13-82; ss by #2900, eff 11-7-84, EXPIRED 11-7-90

ChAPTER Env-Wr 700 WATER USE REGISTRATION AND WATER USE REPORTING

Statutory Authority: RSA 482:87

ParT Env-Wr 701 REGISTRATION

Env-Wr 701.01 Applicability.

- (a) Any person using an average of 20,000 gallons of water or more per day averaged over a 7 day period, or 600,000 gallons in any 30 day period, shall register with the division in accordance with these rules.
- (b) A facility which has several points of use on one site which share a common source shall be considered as one user.
- (c) Each facility shall be registered individually.
- (d) To illustrate water use by users specified in (a) above, the following are examples of uses to which these rules shall apply:
 - (1) Water supply for domestic, commercial, industrial or institutional use;
 - (2) Treated and untreated municipal or industrial wastewater discharge;

- (3) Industrial process water;
- (4) Contact and non-contact cooling water;
- (5) Agricultural water use unless exempted under Env-Wr 701.02(b); and
- (6) Water used in the production of either mechanical or electrical power.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 701.02 Exemptions. Certain uses which are of limited duration, frequency or quantity shall be exempt including:

(a) One time or occasional uses of water in excess of 600,000 gallons per 30 day period such as:

- (1) Filling swimming pools; and
- (2) Fire fighting.

(b) Water used for irrigation provided that:

- (1) Usage does not exceed 140,000 gallons per week; or
- (2) The area irrigated does not exceed 5 acres.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 701.03 Forms.

(a) Forms shall be available from the division for the purpose of water user registration.

(b) Each water user, as defined in Env-Wr 701.01, shall provide the following information:

- (1) Name of water user;
- (2) Location of facility including a site location map which:
 - a. Has a topographic base;
 - b. Has the scale shown;
 - c. Shows the location and boundaries of the facility; and
 - d. Shows the point(s) of withdrawal and point(s) of release of water;

- (3) Mailing address of user;
 - (4) Name and phone number of contact person;
 - (5) Name, location, and type of each source;
 - (6) Point of discharge or release of water including location and name of receiving stream, if applicable;
 - (7) Name of public water supplier serving as source or wastewater treatment facility serving as destination, if applicable;
 - (8) Type, or purpose, of use;
 - (9) All state and federal permits held by the user which pertain to water use by the user. These shall include but not be limited to:
 - a. National Pollutant Discharge Elimination System;
 - b. Federal Energy Regulatory Commission;
 - c. Public Water Supply; and
 - d. Groundwater Discharge.
 - (10) Description of the method of measurement of water use and units in which water use is measured;
 - (11) Estimated average daily use by the facility;
 - (12) Estimated maximum daily use by the facility;
 - (13) For facilities permitted under Env-Ws 410.08(6), average daily and maximum daily discharge to groundwater. The maximum discharge shall be equal to the design flow permitted in accordance with Env-Ws 410.08(a)(6); and
 - (14) Type of well construction, such as drilled bedrock or gravel-pack, if applicable.
- (c) If the information is available, the water user shall also provide the following:
- (1) Standard Industrial Classification (SIC) code;
 - (2) Estimated annual use;
 - (3) The maximum possible withdrawal from each source and the maximum possible discharge to each destination; and

(4) Other relevant information.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 701.04 Hydro Electric Power Producers.

(a) Hydroelectric power producers who elect not to measure their water usage directly shall provide sufficient data on their registration form to allow for determination of water usage from reported power production. This data shall be in addition to that required by Env-Wr 701.03(b).

(b) The data required by (a) above shall include:

- (1) Average operating head;
- (2) Average operating efficiency;
- (3) Minimum necessary operating flow, if known; and
- (4) Maximum existing capacity.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 701.05 Obligation to Register. The water user shall obtain registration forms from, and return completed forms to, the division. Water users existing as of 6-30-87 shall have registered by 12-27-87. Water users beginning use after 6-30-87 shall register within 30 days of commencement of use.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Part Env-Wr 702 MEASUREMENT

Env-Wr 702.01 Methods of Measurement. Water users shall measure volume of use. Flow meters shall be deemed the most accurate method of measurement. All public water suppliers shall meter their withdrawals from surface and ground water sources. Other water users may use meters for volume measurements, however less accurate methods of measurement shall be allowed as specified in Env-Wr 702.10. All methods of measurement shall be subject to periodic review by the division to assure compliance with accuracy requirements in accordance with Env-Wr 702.10.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 702.02 Water Meters. Water meters shall be equipped with a means of recording the

cumulative volume of water which passes through a facility.

Source. #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 702.03 Weirs. Weirs shall be considered an acceptable method of measurement for surface water discharges of steady volume. All weirs shall have a rating table. A standard rating table may be used with a weir of standardized design, otherwise the rating table shall be developed specifically for an individual weir.

Source. #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 702.04 Pump Capacity and Run Time. Non-consumptive users shall have the option of using the maximum pump capacity as an estimation of the water use rate. If pumping is discontinuous, the water user shall record the pumping duration. Run time shall be measured manually or automatically.

Source. #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 702.05 Unit Discharge Rate and Time.

(a) Agricultural irrigators and snow makers shall have the option of determining water use through a methodology particular to their situation. This methodology shall utilize a combination of several system operation parameters to develop a water use rate per unit of time.

(b) Parameters to be used in methodologies developed pursuant to (a) above shall include but are not limited to:

(1) The discharge characteristics of the nozzle or sprayer;

(2) The number of sprayers;

(3) The number and size of pumps; and

(4) The system operating pressure.

(c) Documentation of the water use configuration and run time shall be made to determine the total water usage.

Source. #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 702.06 Hydroelectric Power Production. Water users who produce hydroelectric power shall have the option of measuring the volume of water which flows through the turbines or

determining water usage by measuring power production and applying site specific conversion factors to determine water usage.

[Source.](#) #5662, eff 7-1-93

Env-Wr 702.07 Water Balance. The use of a water balance to determine what portion of a facility's total use is for a particular purpose shall be allowed upon specific approval of the division after written request and upon submission of documentation sufficient to allow the division to determine that the accuracy requirements as stated in Env-Wr 702.10 shall be met.

[Source.](#) #5662, eff 7-1-93

Env-Wr 702.08 EPA Approved Methods. Methods of measurement approved by the U.S. Environmental Protection Agency shall be accepted provided that the data provided meets the requirements of Env-Wr 702.10.

[Source.](#) #5662, eff 7-1-93

Env-Wr 702.09 Equivalent Methods. A water user shall have the option of developing a method of measurement for a particular use that produces results with the accuracy required by Env-Wr 702.10. Such methods shall be fully documented in writing. This documentation shall be submitted to the division for written approval in accordance with Part Env-Wr 705.

[Source.](#) #5662, eff 7-1-93

Env-Wr 702.10 Accuracy.

(a) The method of measurement shall be accurate to within 10% unless otherwise stated in paragraphs (b) and (c). These requirements shall not relieve a water user of any more stringent requirements imposed by other agencies.

(b) Public water suppliers shall measure withdrawals to within 5% accuracy.

(c) Non-consumptive water users shall measure usage to within 15% accuracy.

[Source.](#) #5662, eff 7-1-93

Env-Wr 702.11 Frequency of Measurement.

(a) Measurements of water use shall be made with sufficient frequency to insure the accuracy of total monthly usage volumes. The frequency of measurement shall be increased if the day-to-day variability of water use increases. These requirements shall not relieve a water user of any more stringent requirements imposed by other agencies.

(b) Water use totals shall be developed at least once per month.

(c) Water meters that are equipped with a totalizer to measure cumulative flow achieve the greatest frequency of measurement practical. Such measurements shall be deemed continuous.

(d) In situations where water use for a facility is determined by a certain factor multiplied by run time, run time shall be recorded at the end of each period of use.

(e) Manual measurement of flow over weirs shall be made at least weekly. When the weekly measurement varies by more than 25%, the minimum frequency shall be daily until such time as the flow variation over a week is less than 25%.

[Source.](#) #5662, eff 7-1-93

Env-Wr 702.12 Record Keeping. Each water user shall maintain an accurate record of water use including all direct measurements and calculations of use for other methods of measurement. Records shall be kept for a minimum of 3 years.

[Source.](#) #5662, eff 7-1-93

Part Env-Wr 703 REPORTING

Env-Wr 703.01 Forms. Standard water use reporting forms shall be used to report water use unless the applicable data is provided under Part Env-Wr 704.

[Source.](#) #4278, eff 6-30-87; ss by #5662, eff 7-1-93

Env-Wr 703.02 Information contained on forms. The following information contained on the reporting form shall be verified by the water user:

- (a) Name of water user;
- (b) Name of facility;
- (c) Location of facility (road name and town);
- (d) Water User Identification Number;
- (e) Method of measurement; and
- (f) Contact person and telephone number.

[Source.](#) #4278, eff 6-30-87; ss by #5662, eff 7-1-93

Env-Wr 703.03 Information to be reported. In addition to verifying the information described in

Env-Wr 703.02 above, the water user shall provide the information identified below:

- (a) Monthly water use total per source/destination;
- (b) Units of measurement;
- (c) The amount of power produced per month, if water usage is determined based on power production;
- (d) The basis for determination of unit discharge rate, if water usage is determined based on a unit discharge rate; and
- (e) Any changes in registration information which have occurred during the last quarter, including but not limited to:
 - (1) Change in mailing address;
 - (2) Change in contact person or telephone number;
 - (3) Addition of new source(s) or relocation or abandonment of existing source(s);
 - (4) Addition of new release point(s) or relocation or abandonment of existing release point(s);
 - (5) Major facility expansion, modification or relocation;
 - (6) Changes in method of measurement;
 - (7) Problems with measurement equipment during the last quarter; and
 - (8) Explanation of changes identified above.

[Source.](#) #4278, eff 6-30-87

Env-Wr 703.04 Method and Frequency of Reporting.

- (a) Completed forms which indicate monthly usage shall be submitted to the division every 3 months within the first 15 working days following the reporting period.
- (b) Irrigators shall report monthly water usage on an annual basis. The annual report shall be submitted to the division no later than November 1st of every year.
- (c) Snowmakers shall report monthly water usage on an annual basis. The annual report shall be submitted to the division no later than May 1st of every year.
- (d) Groundwater dischargers permitted in accordance with Env-Ws 410.08(a)(6) who maintain average daily discharges equal to the volume registered in accordance with Env-Wr 701.03(b)(13) shall be exempt from quarterly reporting of monthly water use. Any change in monthly discharge

which persists for 2 successive months shall be reported to the division during the following month.

[Source.](#) #4278, eff 6-30-87; ss by #5662, eff 7-1-93

ParT Env-Wr 704 UNIFIED REPORTING PROCEDURE

Env-Wr 704.01 Applicability. The unified reporting procedure shall apply to all water users required to register under this chapter who are providing the information requested in this chapter to other divisions within the department of environmental services or other agencies of the State of New Hampshire.

[Source.](#) #4278, eff 6-30-87; ss by #5662, eff 7-1-93

Env-Wr 704.02 Public Water Suppliers. Public water suppliers shall be those persons operating a public water system as defined by RSA 485:1-a, XV. Any public water supplier providing water use data to the bureau of water supply engineering in the water supply and pollution control division within the department of environmental services, shall be in compliance with this chapter provided that the data supplied is the same as is required in Env-Wr 703.03, including the uniform metering requirement as described in Env-Wr 702.01(a).

[Source.](#) #4278, eff 6-30-87; ss by #5662, eff 7-1-93

Env-Wr 704.03 Dischargers to Surface Waters. Dischargers to surface waters shall include those persons who release water to a surface water body and whose releases are regulated under the National Pollutant Discharge Elimination System. Any discharger to surface waters providing water use data to the permits & compliance section of the water supply and pollution control division of the department of environmental services shall be in compliance with this chapter provided that the data supplied is the same as is required in Env-Wr 703.03.

[Source.](#) #4278, eff 6-30-87; ss by #5662, eff 7-1-93

Env-Wr 704.04 Hydroelectric Power Producers. Any producer of hydroelectric power providing power production data to the public utility commission and who has provided a means of approximating the volume of water used in the production of that power shall be in compliance with this chapter provided that the data supplied is the same as is required in Env-Wr 703.03.

[Source.](#) #4278, eff 6-30-87; ss by #5662, eff 7-1-93

ParT Env-Wr 705 SPECIAL EXCEPTIONS

Env-Wr 705.01 Purpose. Certain water users by the nature of their facility, water use, business

practice or trade secrets may have great difficulty complying with the specific requirements of this chapter. The intent of this chapter is to collect accurate water use data. A special exception shall allow a water user to determine the desired information by a method not previously specified and/or report the information at a frequency other than stated in Env-Wr 703.04.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 705.02 Written Request. The water user shall request a special exception in writing. The request shall specify the change sought, the reason(s) why the special exception is being sought, and the method of compliance with the intent of this chapter.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

Env-Wr 705.03 Review of Request.

- (a) The request shall be reviewed by the division to determine if the requested modification will result in compliance with the intent of this chapter.
- (b) The director of the division shall determine, based on the information submitted, whether the requested modification will result in compliance with the intent of this chapter.
- (c) The director shall send written notice of his decision to the water user. The notice shall contain the specific findings on which the decision was made.

[Source.](#) #4278, eff 6-30-87; ss by #5662,
eff 7-1-93

ChAPTER Env-Wr 800 ADMINISTRATIVE FINES - EXPIRED

[Source.](#) #5082, eff 2-22-91, EXPIRED: 2-22-97; Env-Wr 802.01(e) was amd by #5495, eff 10-27-92, EXPIRED: 10-27-98